

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Investigation into the Gas Market Activities of Southern California Gas Company, San Diego Gas and Electric, Southwest Gas, Pacific Gas and Electric, and Southern California Edison and their impact on the Gas Price Spikes experienced at the California Border from March 2000 through May 2001.

Investigation 02-11-040
(Filed November 21, 2002)

Order Instituting Investigation whether San Diego Gas & Electric Company, Southern California Gas Company and their holding company, Sempra Energy, respondents, have complied with relevant statutes and Commission decisions, pertaining to respondents' holding company systems and affiliate activities.

Investigation 03-02-033
(Filed February 27, 2003)

**ADMINISTRATIVE LAW JUDGE'S RULING
SETTING PREHEARING CONFERENCE AND
ADDRESSING PROCEDURAL MATTERS**

This ruling sets a prehearing conference (PHC) in Investigation (I.) 03-02-033. It grants the motion of the Utility Consumers' Action Network (UCAN) to accept the late filing of its response to a petition for modification. It also addresses discovery and other procedural issues for I.03-02-033.

Background

I.03-02-033 was initiated to evaluate the business activities of the respondent utilities, San Diego Gas & Electric Company (SDG&E), Southern

California Gas Company (SoCalGas), and their holding company, Sempra Energy (Sempra), to ensure that they have complied with relevant statutes and Commission decisions and rules in the management, oversight, and operations of their companies. The Order Instituting Investigation (OII) initiating the proceeding expressed the concern that unregulated affiliates of the respondent utilities have substantial business activities within the utilities' service territories that may create conflicts of interest between the utilities (and the utilities' ratepayers) and their unregulated affiliates. The investigation was categorized as ratesetting.

The preliminary scoping memo in the OII lays out the issues that the Commission identified to be addressed. The OII indicates that the scope of this proceeding shall include, but not be limited to, the following issues:

1. Whether the activities of SDG&E, SoCalGas, their holding company, and unregulated affiliates have complied with relevant statutes and prior Commission decisions and rules.
2. Whether the business activities undertaken by the utilities, the holding company, and/or affiliates pose potential problems, create unjust or unreasonable impacts on utility customers, or have been detrimental to customers' interests.
3. Whether additional rules, conditions, or other changes are needed to protect ratepayers and the public.

The OII specified that any party may suggest related issues for the Commission's consideration.

On March 12, 2003, SDG&E and SoCalGas filed a petition for modification requesting that the Commission modify the OII to incorporate the following changes:

- Direct the Chief Administrative Law Judge (ALJ) to report to the Energy Division any allegations of affiliate wrongdoing that have been deferred from a past proceeding;
- Use the existing annual audit of affiliate compliance, the scope of which could be expanded to include any additional concerns, to gather facts before embarking on an investigation;¹
- Suspend the procedural schedule, including the scoping memo and discovery issues, pending the audit; and
- Separate I.03-02-033 from I.02-11-040.

Southern California Edison Company (SCE) filed a response to the petition for modification, and SDG&E and SoCalGas filed a reply to SCE's response. UCAN submitted a response to the petition for modification, with a motion to accept the late filing of its response. UCAN's motion is granted.

Prehearing Conference

Pending Commission action on the petition for modification, this proceeding should proceed as described in the OII. The Commission will hold a PHC in this investigation at 10 a.m. on Thursday, May 29, 2003, in the Commission Courtroom, State Office Building, 505 Van Ness Avenue, San Francisco, California.

At the PHC, we will take appearances and develop an official service list for I.02-11-040/I.03-02-033, as discussed in a March 17, 2003 ALJ ruling. We will discuss the scope and procedural schedule of I.03-02-033. My inclination is that the current consolidation of I.02-11-040 and I.03-02-033 should not affect the schedule of either proceeding; that issue will be discussed at the PHC. We will

¹ The audit report for the annual audit referenced in the petition for modification was due to be filed with the Commission on May 1, 2003.

also discuss whether the protective order approved for I.02-11-040 by an ALJ ruling dated February 25, 2003 is appropriate for use in I.03-02-033.

PHC Statements

Interested persons may file PHC statements, if so desired, no later than May 22, 2003, and shall serve these statements on the temporary service list. While the PHC statements must be filed with the Docket Office in paper form, they may be served in electronic form, pursuant to Rule 2.3(b) in the Commission Rules of Practice and Procedure. The use of PDF format is encouraged. Paper format copies, in addition to electronic copies if made available, shall be served on the Assigned Commissioner, the ALJ, anyone on the Appearances and State Service portions of the service list who does not have a valid e-mail address, and any other party requesting paper format service. If a party serves its PHC statement electronically, it should e-mail courtesy copies to the entire service list, including those appearing on the list as "Information Only." Persons filing PHC statements should bring 15 extra copies to the PHC. Parties are encouraged to meet and confer prior to the PHC and to file joint statements to the extent feasible.

If PHC statements are filed, it would be useful for them to address the following items:

1. Identification of any additional substantive issues not identified in the OII that parties believe should be within the scope of the proceeding,
2. Proposed procedural schedules, and
3. Discussion of any other procedural issues necessary to address for a prompt resolution of this proceeding.

While UCAN listed some areas of concern in its response to the petition for modification, it would be helpful to have those concerns explained more thoroughly through PHC statements or during the PHC.

Service List

A temporary service list for the proceeding was created by an ALJ's ruling dated March 17, 2003, consisting of the service list for I.02-11-040, combined with the service lists for Application (A.) 94-11-013, A.96-10-038, and Rulemaking 97-04-011/I.97-04-012. Electronic copies of these service lists may be obtained on the Commission's web site. An electronic or hard copy of the temporary service list may also be obtained from the Commission's Process Office. The Process Office may be contacted by telephone at (415) 703-2021 or by mail at the California Public Utilities Commission, 505 Van Ness Avenue, San Francisco, CA 94102.

At the PHC, we will develop the official service list for I.02-11-040/I.03-02-033, which will replace the temporary service list and will be posted on the Commission's web site as soon as practicable. Persons who are on the existing service list for I.02-11-040 will be retained on the combined service list for the consolidated proceeding. Persons seeking to become a party in this proceeding should appear at the PHC and complete an appearance form.

The official service list will have three categories: Appearances, State Service, and Information Only. To determine who should be granted party status, each person will be questioned regarding the planned level of participation. Persons who demonstrate a plan to actively participate in the evidentiary proceeding through presentation of testimony, cross-examination, or submission of briefs will be granted party status and will be listed as

Appearances on the official service list. Appearances shall be served with all documents parties submit in connection with the proceeding.

State employees who are not Appearances will be placed on the State Service portion of the official service list either by appearing at the PHC and filling out an appearance form, or by mailing a written request to the Process Office requesting that they be added to the State Service portion of the official service list. The State Service list shall be served with all documents parties submit in connection with the proceeding.

Persons who are not Appearances but want notice of hearings, rulings, proposed decisions, and decisions issued by the Commission will be categorized as Information Only. In addition, all documents served electronically shall be sent to Information Only names who have provided valid e-mail addresses. Persons seeking Information Only status may either appear at the PHC and complete an appearance form or mail a written request to the Process Office requesting that they be added to the official service list for Information Only.

Assistance in Participation in Commission Proceedings

The Commission has a Public Advisor who can assist persons who have questions about the Commission's decisionmaking process and how to participate in Commission proceedings. You can contact the Public Advisor's San Francisco office by mail at the California Public Utilities Commission, 505 Van Ness Avenue, San Francisco, CA 94102, by e-mail at public.advisor@cpuc.ca.gov, or by telephone at (866) 849-8390 (toll free). You can also contact the Public Advisor's Los Angeles office by mail at the California Public Utilities Commission, 320 West Fourth Street, Suite 500, Los Angeles, CA 90013, by e-mail at public.advisor.la@cpuc.ca.gov, or by telephone at

(866) 849-8391 (toll free). The TTY numbers for persons with disabilities are (866) 836-7825 (toll free) and (415) 703-5282.

Discovery

Parties may commence discovery in I.03-02-022 at any time. Parties shall provide responses within 10 days to all discovery requests. Parties shall provide a copy of each discovery request to all other parties at the time the request is sent. Parties shall provide a copy of their discovery responses to each party that makes a request for that specific response. Electronic copies of discovery requests and discovery request responses are sufficient unless the receiving party requests a paper copy.

The parties shall attempt to resolve any discovery disputes with a good faith meet and confer, which may occur telephonically if that is more convenient than an in-person meeting. If that attempt does not resolve the dispute, the parties are to e-mail the assigned ALJ regarding the dispute. The assigned ALJ may schedule a conference call, ask for written motions, refer the discovery dispute to the Law and Motion ALJ, or take other steps as deemed appropriate. The assigned ALJ's e-mail address is cft@cpuc.ca.gov.

Therefore, **IT IS RULED** that:

1. The Commission will hold a prehearing conference (PHC) at 10 a.m. on Thursday, May 29, 2003, in the Commission Courtroom, State Office Building, 505 Van Ness Avenue, San Francisco, California.
2. Interested persons may file PHC statements, as more fully set forth above, no later than May 22, 2003. Parties shall serve the PHC statements on the temporary service list, as well as on the Assigned Commissioner and assigned Administrative Law Judge, and should bring 15 extra copies to the PHC.

Dated May 2, 2003, at San Francisco, California.

/s/ CHARLOTTE F. TERKEURST

Charlotte F. TerKeurst
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Setting Prehearing Conference and Addressing Procedural Matters on all parties of record in this proceeding or their attorneys of record.

Dated May 2, 2003, at San Francisco, California.

/s/ ELIZABETH LEWIS
Elizabeth Lewis

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.